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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,428	04/02/2001	Ronald Jacobson	1.002.00	3631

7590 01/29/2003

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EXAMINER	
MEINECKE DIAZ, SUSANNA M	
ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/826,428	JACOBSON, RONALD	
	Examiner	Art Unit	
	Susanna M. Diaz	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 July 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. Claims 1-48 are presented for examination.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 58, 76, 80. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 8 is objected to because of the following informality:

Claim 8, line 1, insert --of-- before "said"

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15-18, 22, and 24-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "said plurality of inquisitory tasks" recited in both lines 3-4 of claim 15 and lines 2-3 of claim 16. For examination purposes, "said plurality of inquisitory tasks" will be interpreted as "said plurality of tasks."

Claim 17 recites "a scheduled inquisitory task" (line 4). It is not clear whether or not this "scheduled inquisitory task" refers to the tasks whose preferred performance is included in the scheduling application recited in claims 15 and 16. For examination purposes, it will be assumed that the "scheduled inquisitory task" recited in claim 17 refers to the tasks whose preferred performance is included in the scheduling application recited in claims 15 and 16.

Claim 18 is dependent from claim 17 and therefore inherits the same rejection under 35 U.S.C. 112, 2nd paragraph.

There is no antecedent basis for "said user responses displayed concurrently with a related inquisitory task" in lines 3-5 of claim 22. For examination purposes, "said user responses displayed concurrently with a related inquisitory task" will be interpreted as "said user responses displayed concurrently with a related task" and claim 22 will be interpreted as being dependent from claim 12 instead of claim 1 since claim 12 provides sufficient antecedent basis.

The preamble of claims 24-48 is inconsistent with the body of these claims. The preamble recites "at least one of a plurality of food service sites," yet the body of the claims only refers to a single site. Please amend the claims to make the preamble consistent with the body of the claims. For examination purposes, the recitation of "at

least one of a plurality of food service sites" in the preamble will be interpreted as "a food service site" in order to be consistent with the body of the claims.

Claim 43 recites "automatically selecting at least one of the provided plurality of user responses"; however, claim 43 is dependent from claim 42 which recites "manually selecting at least one of the provided plurality of user responses." It is not clear if or even why a user would select at least one of the provided plurality of user responses both manually and automatically. For examination purposes, claim 43 will be interpreted as being dependent from claim 41 instead of claim 42.

Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1-3, 19, and 23 are rejected under 35 U.S.C. 102(a) as being anticipated by Apigent Solution™'s product ZEOM.net™, as disclosed in the following references:

"Oklahoma Telecom Forms New Tech Subsidiary, Apigent Solutions™" (published November 21, 2000)

Waters, "Operators Eye Potential of ASP to Empower Field Staff" (published January 1, 2001)

"Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment" (published September 6, 2001 -- Please note that although this reference was published five months after Applicant's filing date, it qualifies as valid prior art since the disclosure within merely provides further support of the features of ZEOM.net™ already described in the aforementioned articles, both of which predate Applicant's invention.)

ZEOM.net™ discloses a system for monitoring a food service site, said system comprising:

[Claim 1] a) a local processor assembly comprising memory, a display and input facilities ("Operators Eye Potential of ASP to Empower Field Staff": ¶¶ 2, 3, 10, 16; "Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 1-10);

b) said local processor assembly including a monitoring program structured to determine operational performance of the site ("Operators Eye Potential of ASP to Empower Field Staff": ¶¶ 2, 3, 10, 16; "Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 1-10);

c) said monitoring program comprising a plurality of tasks relating to different operational categories, at least some of said plurality of tasks requiring a user response ("Operators Eye Potential of ASP to Empower Field Staff": ¶¶ 2, 3, 10, 16; "Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 1-10);

d) predetermined standards included within said monitoring program and being determinative of acceptable performance of said operational categories ("Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 2, 5, 8-10);

e) result records comprised of data derived from a collection of said user responses and indicative of compliance of said operational categories with said predetermined standards ("Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 2, 5, 8-10); and

f) a control facility including sufficient memory and processing capabilities for storing and processing said result records to define evidence of a pattern of compliance with said predetermined standards ("Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 2, 5, 8-10);

[Claim 2] wherein said predetermined standards comprise government regulatory requirements ("Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 5, 9, 10);

[Claim 3] wherein said predetermined standards further comprise owner regulatory requirements ("Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 2, 8, 10);

[Claim 19] wherein said input facilities comprise a temperature acquisition module interfaced with said local processor assembly and structured to determine an appropriate user response;

[Claim 23] wherein said local processor assembly comprises a portable, handheld computer ("Oklahoma Telecom Forms New Tech Subsidiary, Apigent Solutions™": ¶ 9).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Apigent Solution™'s product ZEOM.net™, as disclosed in the following references:

"Oklahoma Telecom Forms New Tech Subsidiary, Apigent Solutions™" (published November 21, 2000)

Waters, "Operators Eye Potential of ASP to Empower Field Staff" (published January 1, 2001)

"Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment" (published September 6, 2001 -- Please note that although this reference was published five months after Applicant's filing date, it qualifies as valid prior art since the disclosure within merely provides further support of the features of ZEOM.net™ already described in the aforementioned articles, both of which predate Applicant's invention.)

as applied to claim 2 above.

As per claim 4, ZEOM.net allows restaurant operators to set predetermined operational standards, such as those based on in-house requirements or government regulatory standards; however, ZEOM.net does not explicitly teach that said predetermined standards further comprise owner regulatory requirements which exceed

said government regulatory standards. Official Notice is taken that it is old and well-known in the art for a business manager to choose to set higher standards for his/her business than those required by government regulatory standards. As a matter of fact, many businesses tout these higher standards in advertisements as an added attraction to further encourage customers to patronize their respective business. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt ZEOM.net to allow restaurant operators to set predetermined standards comprising owner regulatory requirements which exceed government regulatory standards in order to provide a restaurant owner with more advertising leverage to encourage customers to patronize his/her restaurant.

10. Claims 5-18, 20-22, and 24-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apigent Solution™'s product ZEOM.net™, as disclosed in the following references:

"Oklahoma Telecom Forms New Tech Subsidiary, Apigent Solutions™" (published November 21, 2000)

Waters, "Operators Eye Potential of ASP to Empower Field Staff" (published January 1, 2001)

"Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment" (published September 6, 2001 -- Please note that although this reference was published five months after Applicant's filing date, it qualifies as valid prior art since the disclosure

within merely provides further support of the features of ZEOM.net™ already described in the aforementioned articles, both of which predate Applicant's invention.)

as applied to claim 1 above (for claims 5-23), in view of Richardson (U.S. Patent No. 5,867,823).

As per claims 5 and 6, while ZEOM.net provides alerts regarding corrective actions that need to be taken, ZEOM.net does not explicitly provide a user with a display of the corrective actions *per se*. However, Richardson is directed to maintenance of a retail center, such as a grocery store. A worker carries around a handheld device and inputs activities that need to be carried out. For example, if a spill needs to be cleaned up, the worker enters information about the location of the spill and type of spilled product into the handheld device. The handheld device then displays a set of instructions (i.e., plurality of corrective actions) that the worker must respond to. In the instant scenario, the handheld device instructs the worker to use gloves and protective eyewear, at which point the worker must indicate that he/she has completed each task. Next, the worker is guided through instructions on how to clean up the spill and the worker must complete each instruction and respond accordingly on the handheld device before the next instruction is given to him/her. See column 4, lines 1-42. Richardson explains that his invention is important "to help ensure the store floors remain free of spilled materials or other potential hazards" in order to prevent "injury to the shopper as well as potential liability for the store owner" (col. 1, lines 28-35). ZEOM.net has a similar goal in that it assists restaurant managers in ensuring that

compliance with in-house and government regulatory standards is met, thereby serving to protect the health of restaurant workers and customers and therefore minimize the potential liability for the restaurant owner. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with ZEOM.net's restaurant alert system the step of communicating a plurality of corrective actions to the user on a display, each of said corrective actions being responsive to individual ones of said user responses which indicate the existence of conditions non-compliant with associated ones of said predetermined standards (claim 5), wherein said corrective actions require supplemental user responses directed toward compliance of actual conditions of said operational categories with associated ones of said predetermined standards (claim 6), as taught by Richardson, in order to help ensure that crucial restaurant tasks are carried out properly by workers, thereby serving to protect the health of restaurant workers and customers and minimizing the potential liability for the restaurant owner.

Regarding claims 7-9 and 12, ZEOM.net continuously tests restaurant conditions, such as temperature probes, to determine that predetermined standards are being met. If a temperature alert occurs, a worker must respond by physically checking the source of the problem and working to resolve it, e.g., by raising or lowering the temperature of a grill or oven ("Operators Eye Potential of ASP to Empower Field Staff": ¶¶ 2, 3, 10, 16; "Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 1-10). However, ZEOM.net does not provide interactive test items that require a user response to be entered. Nevertheless, as discussed in the rejection of claims 5

and 6 above, the combination of the teachings from ZEOM.net and Richardson yield an interactive display instructing workers which tasks are to be completed and how to complete them (i.e., user responses are displayed). Completed user responses (in the form of input to a handheld device) to these instructions are required. A worker can also choose to perform a particular activity immediately or postpone it in the case of an interruption (col. 5, lines 26-35); therefore, the worker is effectively provided with a plurality of displayed related user responses (as per claims 7 and 12). These tasks are synonymous with the claimed "test items" (as per claims 7-9 and 12). As per claim 8, Richardson teaches that the instructions to carry out a task are displayed concurrently with a worker-initiated request or device-generated alert (col. 4, lines 1-42; col. 5, lines 39-51). As per claim 9, each completed user response is synonymous with the claimed selected user response. In light of the analysis already presented above in the rejection of claims 5 and 6, the Examiner again asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with ZEOM.net's restaurant alert system the interactive test items, as recited in claims 7-9 and 12 and taught by Richardson, in order to ensure that a worker is being provided with the instructions most appropriate to operating conditions and that crucial restaurant tasks are carried out properly by workers, thereby serving to protect the health of restaurant workers and customers and minimizing the potential liability for the restaurant owner.

As per claims 10, 11, and 20, ZEOM.net's restaurant monitoring system consistently keeps track of various temperature probe readings, such as that of a grill, oven, and freezer ("Operators Eye Potential of ASP to Empower Field Staff": ¶ 10;

"Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment": Pages 2,10). When an alert occurs (e.g., see figure on page 2 of "Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment"), it is expected that a worker resolve the problem. In other words, in the case of an alert regarding temperature, the alert will remain active until proper temperature is restored; therefore, ZEOM.net monitors any temperature changes, including those caused by a user responding to the indicated problem. ZEOM.net displays these temperatures (e.g., see figure on page 2 of "Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment"), thereby addressing claims 10, 11, and 20.

As per claim 13, Richardson teaches the input of a user selection of an appropriate one of a plurality of user responses indicative of actual operating conditions. For example, a worker can choose to perform a particular activity immediately or postpone it in the case of an interruption (col. 5, lines 15-35); therefore, the worker is effectively making a user selection based on actual operating conditions since the actual operating conditions are used to determine which instruction set and corresponding questions to display. In light of the analysis already presented above in the rejection of claims 5 and 6, the Examiner again asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with ZEOM.net's restaurant alert system the provision of a user selection of an appropriate one of a plurality of user responses indicative of actual operating conditions in order to ensure that a worker is being provided with the instructions most appropriate to actual operating conditions and that crucial restaurant tasks are carried

out properly by workers, thereby serving to protect the health of restaurant workers and customers and minimizing the potential liability for the restaurant owner.

Regarding claims 14, 21, and 22, Richardson teaches the use of a keypad to allow a worker to easily enter a selection to user responses displayed on the handheld device (col. 5, lines 33-35). In light of the analysis already presented above in the rejection of claims 5 and 6, the Examiner again asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with ZEOM.net's restaurant alert system the use of a keypad to allow a worker to easily enter a selection to user responses displayed on the handheld device, as taught by Richardson, in order to help ensure that crucial restaurant tasks are carried out properly by workers, thereby serving to protect the health of restaurant workers and customers and minimizing the potential liability for the restaurant owner. The easier it is for a worker to enter task information (as is facilitated by keypad entry of data), the more likely a worker is able to properly enter task data corresponding to predetermined compliance standards into the food (e.g., restaurant) monitoring system.

Furthermore, as per claims 15-18, ZEOM.net does not explicitly teach the scheduling of restaurant tasks that need to be performed or provision of an alert when a scheduled task is not completed on time; however, Richardson makes up for this deficiency in his teaching of the scheduling of periodic tasks (col. 5, lines 43-51). Additionally, if a task is not completed (e.g., if the worker fails to input an indication of completion of a task), the worker is provided with an alert the next time the worker activates his/her handheld device (col. 5, lines 39-42). Again, Richardson explains that

his invention is important "to help ensure the store floors remain free of spilled materials or other potential hazards" in order to prevent "injury to the shopper as well as potential liability for the store owner" (col. 1, lines 28-35). ZEOM.net has a similar goal in that it assists restaurant managers in ensuring that compliance with in-house and government regulatory standards is met, thereby serving to protect the health of restaurant workers and customers and therefore minimizing the potential liability for the restaurant owner. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with ZEOM.net's restaurant alert system a scheduling application including preferred performance of said plurality of tasks at a specified time (claim 15), wherein said scheduling application indicates preferred performance of said plurality of tasks in a predetermined sequence (claim 16), and an alert application for communicating untimely input of a corresponding user response to a scheduled task (claim 17) and untimely response to a scheduled task (claim 18), each taught by Richardson, in order to help ensure that crucial restaurant tasks are carried out properly by workers, thereby serving to protect the health of restaurant workers and customers and minimizing the potential liability for the restaurant owner.

[Claims 24-35] Claims 24-35 recite limitations already addressed by the rejection of claims 1-23 above; therefore, the same rejection applies.

[Claims 36-48] Claims 36-48 recite limitations already addressed by the rejection of claims 1-23 above; therefore, the same rejection applies.

Furthermore, as per claim 43, ZEOM.net fails to explicitly teach the automatic selection of at least one of a provided plurality of user responses; however, Richardson's invention allows a worker to enter task information by scanning a bar code located near the inspection area (col. 4, lines 3-12; col. 5, lines 26-30). As stated by Richardson, the use of a bar code scanner to input data "would facilitate accurate inventory controls and keeping of other records" (col. 4, lines 10-12). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with the ZEOM.net-Richardson combination (as addressed above) the automatic selection of at least one of a provided plurality of user responses, such as through use of a bar code scanner, in order to facilitate the accurate keeping of compliance records.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Bemer et al. (WO 01/061552 A2) -- Discloses a computer-implemented system for prompting an employee to perform a task.

Ishizawa et al. (JP410301472A) -- Discloses a device for providing optimal job instruction to workers.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

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(703)305-7687	[Official communications; including After Final communications labeled "Box AF"]
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Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.

Susanna Diaz

Susanna M. Diaz
Patent Examiner
Art Unit 3623
January 24, 2003